

**REMARKS**

Claims 1 – 15 and 31 – 35 have been examined. Claims 1, 3, and 31 – 34 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Pat. No. 6,204,763 (“Sone”) and under 35 U.S.C. §103(a) as unpatentable over Sone; and Claims 2, 4 – 15, and 35 stand rejected under 35 U.S.C. §103(a) as unpatentable over Sone in view of U.S. Pat. No. 6,341,271 (“Salvo”). The rejections are respectfully traversed.

Sone is directed to an automatic replenishment system that maintains a desired inventory of household consumable items (Sone, abstract). In articulating the rejections of Claims 1, 3, and 31 – 31, which stand rejected over Sone alone, the Office Action takes the position that it is either inherent or obvious to extend Sone to multiple households (see Office Action, ¶¶7 and 9). Because no *prima facie* case has been established under either 35 U.S.C. §102(e) or §103(a) even assuming *arguendo* that one of these positions is valid, Applicants do not address the merits of those positions, but reserve the right to do so.

In particular, no *prima facie* case has been established at least because there is no disclosure in Sone of the claim limitation of “aggregating the restock quantities *over the plurality of dispensing units* for each of the multiple distinct items” (emphasis added), which appears in both independent Claims 1 and 31. Even if Sone were extended to cover multiple households, there is no disclosure or suggestion of this limitation. In addressing this limitation, the Office Action makes the following statement, which addresses aggregation only for a *single* dispensing unit:

aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items (occurs on the user’s bill, e.g. if milk was delivered twice, the user would have milk delivery twice on their bill; alternatively, the four (4) toilet paper rolls as shown in figure 2); (Office Action, ¶6).

This statement clearly reflects that the aggregation is being viewed in the Office Action for a single dispensing unit, and not over a plurality of dispensing units as the claims require. Indeed,

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while the application notes a number of advantages to such aggregation over the plurality of dispensing units, in providing an ability to review aggregated requirements, seek bids on the aggregated requirements, and the like (*see generally* Application, p. 10, l. 7 – p. 11, l. 2), aggregation in the manner claimed is inconsistent with the teachings of Sone. Even if Sone could be extended to multiple households, there is nothing in Sone to suggest that the ordering for each household would be anything other than distinct.

For this reason, there is also no motivation to combine Sone with Salvo in the manner suggested in the Office Action. Various of the claim limitations for which the Office Action relies on Salvo are directed to aspects of procurement for the aggregated restocking information. Since Sone teaches away from such aggregated procurement, there would be no motivation to combine it with mechanisms for effecting such aggregated procurement as the Office Action suggests. Furthermore, Applicants noted in the response to the previous Office Action that Salvo also fails to disclose the limitation of “aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items,” and that an attempt to modify Salvo to do so would change the principle of operation of Salvo and/or render Salvo unsuitable for its intended purpose. The details of those remarks are incorporated by reference also into this response. These observations remain true, are uncontroverted in the current Office Action, and further establish a lack of a motivation to modify Salvo in the manner suggested.

Applicants additionally note that the previous Office Action (paper no. 9) explicitly conceded that the limitations of Claims 12 – 15 are not expressly disclosed in Salvo (First Office Action, ¶17) and that Official Notice and/or inherency were being relied on for such disclosures. Applicants’ traversal of such bases and request for a showing of documentary proof have not been addressed, and the current Office Action now groups Claims 12 – 15 with Claims 2, 4 – 11, and 35 as being disclosed in Salvo. To the extent such a grouping continues to rely on the bases articulated in the First Office Action, such bases are again traversed and Applicants reiterate their request for a showing of documentary proof. If, instead, the contrary position is

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now being taken that the limitations of Claims 12 – 15 are expressly disclosed in Salvo, Applicants request that the particular part of Salvo being relied on for such disclosures be designated as required by 37 C.F.R. §1.104(c) so that Applicants may respond. The need for such a designation is especially acute if there has been a change in position regarding what is expressly disclosed in Salvo.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is urged.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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